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Lawyers With Heart?

It Could Be A Rule; Justices May Prod More Attorneys to Offer Free Legal Help

By Kathy George

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Some lawyers say they can't spare the time or money to help poor clients for free. Others would like to help, but know little about housing, domestic violence or other laws most affecting the poor.

Then there are lawyers like Bro.

As the Washington Supreme Court considers a proposed rule to encourage more free legal services, William Broberg stands out as a guy who needs no inducement.

Bro, as he is known, could double his income if he wanted to. He could buy art for the bare white walls of his Pioneer Square office.

But, in a profession that prizes deep-pocketed clients and billable hours, this young solo practitioner seems to prefer working for free.

The Supreme Court is expected to decide soon, possibly today, on a rule proposed by the Washington State Bar Association that would spell out for the first time how much public-interest service a lawyer should donate.

While the proposed rule recommends that every lawyer devote at least 30 hours a year to helping poor people otherwise shut out of the justice system, Broberg already has racked up about 100 hours of unpaid service this year.

Last year, when he won the state bar association's annual award for exceptional pro bono service, he donated about 300 hours by his estimation, mostly defending the free-speech rights of political protesters arrested by Seattle police.

"A lot of lawyers want some money upfront before they'll even take a case," said Bob Barnes, who relied on Broberg's free help to obtain a federal court order allowing a World Trade Organization anniversary rally at Westlake Park in 2001. The city had denied a permit, saying the anti-globalization rally would conflict with the holiday carousel at the park.

If Broberg had not taken that case, Barnes said, the rally would have proceeded without a city permit and "there probably would have been a mess in the streets of Seattle. There would have been tear gas."

Nobody tracks how much free, or pro bono, service is provided by lawyers statewide.

But it is known that, despite aggressive efforts by state and local bar associations to provide legal clinics and other help for the poor, most of their civil-law needs go unmet.

A 1994 study found that nearly half of Washington's low-income households needed civil legal help at least once a year, and that at least 61 percent of the time no help was available, according to a report by the state bar's Pro Bono and Legal Aid Committee.

The problem has worsened in recent years as state and federal governments have cut money for civil legal assistance, supporters of the proposed rule say.

The greatest needs are for help on housing issues, such as landlord-tenant disputes or discrimination, and on public benefits, domestic violence and other family law problems, and consumer protection, said Joan Fairbanks, justice program manager for the state bar.

The state's existing pro bono rule simply says "a lawyer should render public interest legal service," either by waiving or reducing fees or donating money to assistance programs.

Supreme Court Justice Mary Fairhurst, who was president of the state bar while the 30-hour pro bono proposal was being developed, said it's "a good first step."

A couple of states, Florida and Maryland, require a minimum level of pro bono service. The Washington bar opted for a voluntary approach, recognizing that some lawyers have legitimate barriers to pro bono work.

For example, government lawyers face restrictions on use of their tax-paid time, and others "have never practiced law and would be uncomfortable going into court on a domestic violence case," Fairbanks said.

"When you start mandating things like pro bono, you can create some resentment," she added.

Only 9 percent of the state's lawyers now participate in formal pro bono panels, according to the state bar.

Under the proposed rule, lawyers would voluntarily report their pro bono service each year.

Yesterday, Broberg spent yet another Sunday afternoon at the office, working on pro bono as well as paid cases. The 36-year-old lawyer specializes in criminal defense.

His regular hourly rate is \$215. But in the four years since he graduated from Cornell University Law School, he figures he has reduced or waived fees about a third of the time.

"Most people go out and kind of secure their living first," then use free time for public service, he said. "Unfortunately, I kind of did it backwards I'm the lawyer that needs to go into pro bono rehab."

He donates his time to political protesters because he said he believes Seattle police crackdowns have threatened the free "marketplace of ideas" envisioned by the First Amendment. Besides, he said, it's great experience.

"I work in a lot of cases where the money's not huge, but the wrongs are just as great," he said.